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Counsel for USACM Liquidating Trust

**UNITED STATES BANKRUPTCY COURT****DISTRICT OF NEVADA**

In re:  
USA COMMERCIAL MORTGAGE COMPANY,  
  
Debtor.

In re:  
USA CAPITAL REALTY ADVISORS, LLC,  
  
Debtor.

In re:  
USA CAPITAL DIVERSIFIED TRUST DEED  
FUND, LLC,  
  
Debtor.

In re:  
USA CAPITAL FIRST TRUST DEED FUND,  
LLC,  
  
Debtor.

In re:  
USA SECURITIES, LLC,  
  
Debtor.

Affects:  
☐ All Debtors  
☒ USA Commercial Mortgage Company  
☐ USA Capital Realty Advisors, LLC  
☐ USA Capital Diversified Trust Deed Fund, LLC  
☐ USA Capital First Trust Deed Fund, LLC  
☐ USA Securities, LLC

Case Nos.:  
BK-S-06-10725-LBR  
BK-S-06-10726-LBR  
BK-S-06-10727-LBR  
BK-S-06-10728-LBR  
BK-S-06-10729-LBR

JOINTLY ADMINISTERED  
Chapter 11 Cases

Judge Linda B. Riegle Presiding

**NOTICE OF FILING AFFIDAVIT  
OF SERVICE OF SUBPOENA FOR  
RULE 2004 EXAMINATION**

NOTICE IS GIVEN that the USACM Liquidating Trust herewith files the:

**Affidavit of Service of Subpoena for Rule 2004  
Examination of Chimento & Associates, P.A. (Exhibit A  
Attached).**

1 DATED: July 10, 2007

2 **DIAMOND MCCARTHY LLP**

**LEWIS AND ROCA LLP**

3  
4 By: /s/ Eric D. Madden

5 Allan B. Diamond, TX 05801800 (pro hac vice)

6 Eric D. Madden, TX 24013079 (pro hac vice)

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9 *Special Litigation Counsel for*

10 *USACM Liquidating Trust*

By: /s/ Rob Charles

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*Counsel for USACM Liquidating Trust*

**AFFIDAVIT OF SERVICE**

**UNITED STATES BANKRUPTCY COURT  
Middle District of Florida**

Case Number: BK-S-06-10725 LBR

In Re::

**USA Commercial Mortgage Company, et al., Debtors**

For:

Stephen Loden, Esquire  
Diamon McCarthy, LLP

Received by Mahc 5 Couriers, Inc. on the 11th day of June, 2007 at 11:48 am to be served on **CHIUMENTO & ASSOCIATES, P.A., Michael D. Chiumento, 4 Old Kings Road N., Suite B, Palm Coast, FL 32137.**

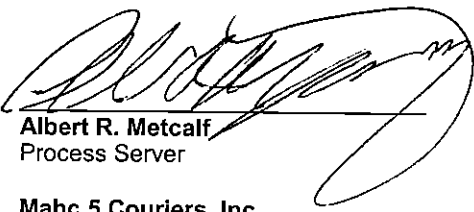
I, Albert R. Metcalf, being duly sworn, depose and say that on the **11th day of June, 2007 at 4:20 pm, I:**

**Served** to a designated person, a true copy of the **Subpoena for Rule 2004 Examination, Witness Fee of \$40.00** to Carolyn Sheeley, Personal Assistant, who stated that they were authorized to accept for the within named,

I certify that I am over the age of 18 and I have no interest in the above action.

Subscribed and Sworn to before me on the 13th day of June, 2007 by the affiant who is personally known to me.

  
NOTARY PUBLIC

  
Albert R. Metcalf  
Process Server

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**Kevin Whitton**

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**PROOF OF SERVICE**

DATE: 06-11-07

PLACE: 4 Old Kings Rd Ste G  
Palm Coast, FL 32137

SERVED:

SERVED ON (PRINT NAME)

Karolyn Sheekey

MANNER OF SERVICE

Auth Sub

**DECLARATION OF SERVER**

I declare under penalty of perjury under the laws of the United States of America that the foregoing information contained in the Proof of Service is true and correct.

Executed on 06-11-07

Date

Signature of Server

1042 N. US HWY 1 Ormond Beach, FL 32174  
Address of Server

Rule 45, Federal Rules of Civil Procedure, Parts (c) & (d) made applicable in cases under the Bankruptcy Code by Rule 9016, Fed.R.Bankr.P.:

**(c) PROTECTION OF PERSONS SUBJECT TO SUBPOENAS.**

(1) A party or an attorney responsible for the issuance and service of a subpoena shall take reasonable steps to avoid imposing undue burden or expense on a person subject to that subpoena. The court on behalf of which the subpoena was issued shall enforce this duty and impose upon the party or attorney in breach of this duty an appropriate sanction, which may include, but is not limited to, lost earnings and reasonable attorney's fee.

(2)(A) A person commanded to produce and permit inspection and copying of designated books, papers, documents or tangible things, or inspection of premises need not appear in person at the place of production or inspection unless commanded to appear for deposition, hearing or trial.

(B) Subject to paragraph (d)(2) of this rule, a person commanded to produce and permit inspection and copying may, within 14 days after service of the subpoena or before the time specified for compliance if such time is less than 14 days after service, serve upon the party or attorney designated in the subpoena written objection to inspection or copying of any or all of the designated materials or of the premises. If objection is made, the party serving the subpoena shall not be entitled to inspect and copy the materials or inspect the premises except pursuant to an order by the court by which the subpoena was issued. If objection has been made, the party serving the subpoena may, upon notice to the person commanded to produce, move at any time for an order to compel the production. Such an order to compel production shall protect any persons who is not a party or an officer of a party from significant expense resulting from the inspection and copying commanded.

(3)(A) On timely motion, the court by which a subpoena was issued shall quash or modify the subpoena if it

(i) fails to allow reasonable time for compliance.

(ii) requires a person who is not a party or an officer of a party to travel to a place more than 100 miles from the place where that person resides, is employed or regularly transacts business in person, except that, subject to the provisions of clause (c)(3)(B)(iii) of this rule, such a person may in order to attend trial be commanded to travel from any such place within the state in which the trial is held or,

(iii) requires disclosure of privileged or other protected matter and no exception or waiver applies, or  
(iv) subjects a person to undue burden.

(B) If a subpoena

(i) requires disclosure of a trade secret or other confidential research, development, or commercial information, or  
(ii) requires disclosure of an unretained expert's opinion or information not describing specific events or occurrences in dispute and resulting from the expert's study made not at the request of any party, or

(iii) requires a person who is not a party or an officer of a party to incur substantial expense to travel more than 100 miles to attend trial, the court may, to protect a person subject to or affected by the subpoena, quash or modify the subpoena or, if the party in whose behalf the subpoena is issued shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship and assures that the person to whom the subpoena is addressed will be reasonably compensated, the court may order appearance or production only upon specified conditions.

**(d) DUTIES IN RESPONDING TO SUBPOENA.**

(1) A person responding to a subpoena to produce documents shall produce them as they are kept in the usual course of business or shall organize and label them to correspond with the categories in the demand.

(2) When information subject to a subpoena is withheld on a claim that is privileged or subject to protection as trial preparation materials, the claim shall be made expressly and shall be supported by a description of the nature of the documents, communications, or things not produced that is sufficient to enable the demanding party to contest the claim.